IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 103 OF 2007

SHRI. GOPINATH PANDURANG BETQUEKAR
THROUGH POWER OF ATTORNEY ANIL
GOPINATH BETHQUEKAR AND 9 ORS. ... Petitioners

Versus

SMT. SHANTABAI ALIAS GANGA ANANT
BETQUEKAR AND 6 ORS ... Respondents

Mr. Ryan Menezes, Advocate for the Petitioner.
Mr. J. P. Mulgaonkar, Advocate for the Respondent Nos.1 to 7.

Coram:- N. A. BRITTO, J.

Date:- 16th August, 2007

P.C.:-

Heard the learned Counsel on behalf of both the parties for some time.

The Plaintiffs filed a suit against the sons and their spouses of Anant Shankar Betquekar and by not making the daughters and their spouses as party Defendants in the suit and who are proposed Defendant Nos.8 to 13.

Admittedly, the proposed Defendants i.e. the daughters and their respective spouses of the said Anant Shankar Betquekar were not parties in the proceedings terminated by Order dated 11-2-2002 of the SDM and Deputy Collector. Although the Defendants had filed a written statement way back in the year 2002 they only vaguely pleaded that all legal heirs of late Anant Shankar Betquekar were not joined as party to the suit without specifying the names of the said legal heirs of the said late Anant Shankar Betquekar. It appears that only on or about 10-6-2004 when the evidence of the Plaintiffs began that it was brought on record that the said Anant Shankar Betquekar had four sons who were married and one son who had expired and had also three daughters i.e. proposed Defendant Nos.9, 11 and 13 who were married and who according to the Plaintiffs do not

reside near about the place. The application came to be made for their addition on 10-8-2006 which came to be rejected by the learned Civil Judge, Senior Division by Order dated 6-12-2006.

Considering the facts stated herein above, the learned Civil Judge, Senior Division ought to have granted the said application leaving the plea of limitation open, to be raised by the proposed Defendants.

In view of the above, the petition is allowed. The Order dated 6-12-2006 is set aside and the application dated 10-8-2006 is granted.

N. A. BRITTO, J.

RD.